

Date: July 11, 2018

To: Members of the California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Consideration of Updated Program Agreements for the Charter School Facilities Program (Resolution No. 18-14)

The Charter School Facilities Program (CSFP) was enacted in 2002 by Assembly Bill 14, and funded through Proposition 47 (\$100 million), Proposition 55 (\$300 million), Proposition 1D (\$500 million), and most recently in 2016, Proposition 51 (\$500 million), bringing the total program funding to \$1.4 billion for the purposes of constructing, acquiring or renovating new facilities for site-based charter school students. The CSFP allows charter schools to access state facility funding for new construction directly or through the school district where the charter school is physically located. The program funds 50% of project costs as a grant (paid by the State), while the charter school, in the form of a long-term lease or a lump sum payment, repays the other 50%.

The California School Finance Authority's (Authority) jointly administers the program with the Office of Public School Construction (OPSC), which supports the State Allocation Board (SAB). The Authority's responsibilities as they relate to CSFP include: 1) program marketing and outreach; 2) making a financially sound determination for program applicants; 3) conducting ongoing monitoring and due diligence of applicant's financial soundness; 4) developing and negotiating program agreements on behalf of the State; 5) generating program payment schedules; and 6) monitoring program compliance.

Background: There are three program agreements – a memorandum of understanding, a funding agreement and a facility use agreement. The MOU is entered into by the state, the charter school, and the local district in which the project is located, and it identifies the respective roles and responsibilities of the Program. The funding agreement is between the State and the obligor (in most cases, the charter school) and includes the payment schedule for the Program obligation. The facility use agreement is between the charter school and the local school district or governmental entity that owns the facility.

Issue: The program agreements were amended in 2010 following changes to the program that permitted charter schools to hold title to CSFP facilities. Since 2010, additional fact patterns have been developed and some minor changes to the agreements were warranted. Authority staff and counsel have developed agreements for the following fact patterns:

1. Educational Management Organization (EMO) holds title; loan between State and EMO;
2. District holds title; no loan; district-dependent charter;
3. District holds title; loan between charter school and State; independent charter;

4. Charter holds title; loan between charter school and State; independent charter school;
5. District holds title; loan between district and State; district-dependent charter;
6. Charter School holds title; no loan; independent charter;
7. District holds title; loan between EMO and State; independent charter;
8. EMO holds title; no loan;
9. District holds title; loan between district and State; independent charter; and
10. District holds title; loan between district and State; EMO.

Authority staff and counsel have worked with our colleagues at OPSC to review and finalize the agreements. The SAB will be approving the form of program agreements at its meeting in August 2018. After board approval, agreements will be sent to Proposition 51 recipients for approval and execution. *Previously executed agreements will remain in place.*

Recommendation: Staff recommends the members approve Resolution No. 18-14 authorizing the amended memorandum of understanding and funding agreement, in substantially these forms. If approved, the amended forms will be provided to Proposition 51 awardees for execution immediately prior to disbursement of any funds for Advance or Final apportionment.